



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/800,524	03/08/2001	Kunimasa Suzuki	204078US6	5017

22850 7590 10/04/2003

OBLON, SPIVAK, MCCLELLAND, MAIER & NEUSTADT, P.C.
1940 DUKE STREET
ALEXANDRIA, VA 22314

EXAMINER

JAKETIC, BRYAN J

ART UNIT	PAPER NUMBER
----------	--------------

3627

DATE MAILED: 10/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/800,524

Applicant(s)

SUZUKI ET AL.

Examiner

Bryan Jaketic

Art Unit

3627

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 April 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

DETAILED ACTION

Claim Objections

1. Claim 2 is objected to because of the following informalities:

In line 4 of the claim, "new product" should be --a new product--;

In line 5 of the claim "new product" should be --the new product--.

Appropriate correction is required.
2. Claim 6 is objected to because of the following informalities:

In line 3 of the claim, "utilized" should presumably be --utilized--;

In line 5 of the claim, "in" should be deleted.

Appropriate correction is required.
3. Claim 11 is objected to because of the following informalities:

In line 4 of the claim, "utilized" should presumably be --utilizing--;

In line 6 of the claim, "in" should be deleted.

Appropriate correction is required.
4. Claim 16 is objected to because of the following informalities:

In line 4 of the claim, "utilized" should presumably be --utilizing--;

In line 6 of the claim, "in" should be deleted.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

5. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

6. Claims 1-20 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

7. Claim 1 recites the limitations:

"the first order information" in lines 2-3 of the claim;

"the first sales channel" in lines 3-4 of the claim;

"the second order information" in line 5 of the claim;

"the second sales channel" in lines 6-7 of the claim;

"said first and the second sales information" in line 10 of the claim;

and "the stock control information" in line 15 of the claim.

There is insufficient antecedent basis for these limitations in the claim.

8. In claim 1, the following phrases are unclear and indefinite:

"utilized the network via said network" in line 4 of the claim;

"excluding the network via said network" in line 7 of the claim;

and "instructing the supply of said merchandise to the supplier of said stock" in lines 16-17 of the claim.

9. Claim 2 recites the limitations:

"the sales debut" in lines 3-4 of the claim;

and "the predetermined period" in line 4 of the claim.

There is insufficient antecedent basis for these limitations in the claim.

10. In claim 2, the phrase "said supply instruction means instructs to stop the supply of merchandise to be collected from the market" in lines 2-3 is unclear and indefinite.

11. Claim 6 recites the limitations:

"the first order information" in line 2 of the claim;

"the first sales channel" in line 3 of the claim;

"the network" in line 3 of the claim;

"the second order information" in line 4 of the claim;

"the stock" in line 6 of the claim;

and "the stock control information" in lines 11-12.

There is insufficient antecedent basis for these limitations in the claim.

12. In claim 6, the phrase "instructing the supply of the said merchandise to the supplier" in lines 13-14 is unclear and indefinite.

13. Claim 7 recites the limitation "the predetermined time period" in line 5 of the claim. There is insufficient antecedent basis for this limitation in the claim.

14. In claim 7, the phrase "instructing to stop the supply of merchandise to be collected from the market" in lines 3-4 is unclear and indefinite.

15. In claim 8, the phrase "instructing the supply of new merchandise to said supplier so that said merchandise will be controlled as the stock" in lines 3-5 is unclear and indefinite.

16. Claim 11 recites the limitations:

"the first order information" in line 3 of the claim;

Art Unit: 3627

"the first sales channel" in line 4 of the claim;

"the network" in line 4 of the claim;

"the second order information" in line 5 of the claim;

"the stock" in line 7 of the claim

and "the stock control information" in lines 12-13 of the claim.

There is insufficient antecedent basis for this limitation in the claim.

17. In claim 11, the phrase "instructing the supply of said merchandise to the supplier" is unclear and indefinite.

18. Claim 12 recites the limitation "the new product sales" in line 5 of the claim.

There is insufficient antecedent basis for this limitation in the claim.

19. In claim 12, the phrase "instructing to stop the supply of said merchandise to be collected" in lines 3-4 is unclear and indefinite.

20. In claim 13, the phrase "instructing the supply of said new product to said supplier so that said product would be controlled as the stock" in lines 3-5 is unclear and indefinite.

21. Claim 16 recites the limitations:

"the first sales channel" in line 3 of the claim;

"the network" in line 4 of the claim;

"the second sales channel" in line 7 of the claim;

"the stock control information" in line 17 of the claim;

and "said stock control means" in line 18 of the claim.

There is insufficient antecedent basis for these limitations in the claim.

Art Unit: 3627

22. In claim 16, the phrase "instructing the supply of said merchandise to said stock supplier" at the end of the claim is unclear and indefinite.

23. Claim 17 recites the limitations:

"said new product sales" in line 4 of the claim;

and "the predetermined period" in lines 4-5 of the claim.

There is insufficient antecedent basis for this limitation in the claim.

24. In claim 17, the phrase "supply instructing means instructs to stop the supply of merchandise to be collected" in lines 2-3 is unclear and indefinite.

25. In claim 18, the phrase "said supply instructing means instructs the supplier to supply said new merchandise so that the merchandise is controlled as the stock" in lines 2-4 is unclear and indefinite.

Claim Rejections - 35 USC § 102

26. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

27. Claims 1, 6, 11, and 16 are rejected under 35 U.S.C. 102(e) as being anticipated by Foster et al. Foster et al disclose order information receiving means (40) for receiving information of merchandise sold through first and second channels, wherein

Art Unit: 3627

one channel utilizes the Internet, and the other does not (see col. 5, lines 41-48); stock control means for controlling the stock to be distributed to each channel (see col. 2, lines 8-18); and supply instruction means (60) for determining the proper supply based on sales conditions (see col. 5, line 55 through col. 6, line 5).

Claim Rejections - 35 USC § 103

28. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

29. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

30. Claims 2-5, 7-10, 12-15, and 17-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Foster et al. Foster et al teach all of the limitations of the claims as detailed in paragraph 27 of this Office Action. Foster et al further teach the step of providing new products to a supplier (see col. 8, lines 32-44). Foster et al do not teach

Art Unit: 3627

the step of stopping the supply of merchandise due to the sales debut of a new product. However, it is common in the art to stop the supply of a product when it is about to be replaced by a new product. It would have been obvious to one of ordinary skill in the art at the time the invention was made to employ the step of stopping the supply of a product for a predetermined period before a new product is released, to prevent the accumulation of unwanted inventory.

Conclusion

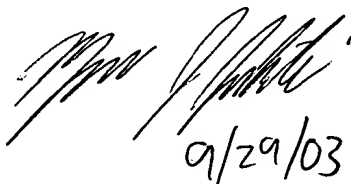
31. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Asplen, Jr, Rive et al, and Sharp et al disclose systems for selling products through multiple channels.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan Jaketic whose telephone number is (703) 308-0134. The examiner can normally be reached on Monday through Friday (9:00-5:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Olszewski can be reached on (703)308-5183. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

bj



9/29/03